

COTTONWOOD HEIGHTS

ORDINANCE NO. 114

AN ORDINANCE AMENDING TITLE 14 (HIGHWAYS, SIDEWALKS AND PUBLIC PLACES) OF THE COTTONWOOD HEIGHTS CODE OF ORDINANCES TO INCLUDE CHAPTER 14.65 (PROHIBITION ON SMOKING IN PUBLIC PARKS AND PLAYGROUNDS AND OTHER CITY-OWNED PROPERTY)

WHEREAS, effective 14 January 2005 the city of Cottonwood Heights (the “City”) adopted a code of ordinances (the “Code”); and

WHEREAS, UTAH CODE ANN. §26-38-6 authorizes the City to restrict smoking in outdoor places of public access that are owned or operated by any political subdivision(s) of the state of Utah; and

WHEREAS, on 13 May 2008, a public hearing was held by the City’s municipal council (the “Council”) concerning whether the Code should be amended to prohibit smoking in public parks and playgrounds and other City-owned property within the City; and

WHEREAS, on 27 May 2008, the Council met in regular session to consider, among other things, amending title 14 (Highways, Sidewalks and Public Places) of the Code to add new chapter 14.65 prohibiting smoking in public parks and playgrounds and other City-owned property within the City; and

WHEREAS, the Council finds that tobacco smoke is a form of air pollution and is a danger to the public health, safety and welfare; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interest of the health, safety and welfare of the City’s residents to adopt new chapter 14.65 of the Code as proposed, and that the regulations therein are a proper exercise of the City’s police power;

NOW, THEREFORE, BE IT ORDAINED by the city council of the city of Cottonwood Heights as follows:

Section 1. **Adoption of Chapter 14.65.** Title 14 of the Code is hereby amended to include new Chapter 14.65 set forth on the attached exhibit, which chapter is hereby adopted and enacted.

Section 2. **Action of Officers.** All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this ordinance (this “*Ordinance*”), whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

Section 3. **Severability.** It is hereby declared that all parts of this Ordinance are severable,

and if any section, paragraph, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 4. **Repealer**. All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 5. **Effective Date**. This Ordinance, assigned no. 114, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City's Recorder, or such later date as may be required by Utah statute.

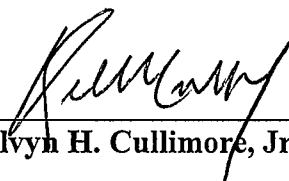
PASSED AND APPROVED this 27th day of May 2008.

COTTONWOOD HEIGHTS CITY COUNCIL




Linda W. Dunlavy, Recorder

By


Kelvyn H. Cullimore, Jr., Mayor

VOTING:

Kelvyn H. Cullimore, Jr.	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Gordon M. Thomas	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Don J. Antczak	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Bruce T. Jones	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the Recorder's office this 27th day of May 2008.

POSTED this 29 day of May 2008.

Chapter 14.65

PROHIBITION ON SMOKING IN PUBLIC PARKS AND PLAYGROUNDS AND OTHER CITY-OWNED PROPERTY

Sections:

- 14.65.010 Findings; Purpose.**
- 14.65.020 Definitions.**
- 14.65.030 Outdoor smoking prohibited in public parks and playgrounds.**
- 14.65.040 Smoking prohibited on city-owned property at and during city events.**
- 14.65.050 Smoking prohibited near transit stops.**
- 14.65.060 Penalties.**

14.65.010 Findings; Purpose.

A. UTAH CODE ANN. section 26-38-6 allows the city to restrict smoking in outdoor places of public access which are owned or operated by a political subdivision of the state.

B. Tobacco smoke is a form of air pollution and is a danger to the health, safety and welfare of the public.

C. The city council has determined that it is in the best interests of the city to protect the health, safety and welfare of the public in their use of parks, recreational areas and city-owned property as provided in this chapter.

D. The purpose of this chapter is to provide a legal framework to protect the public health, safety and welfare from the dangers posed by tobacco smoke in certain outdoor settings.

14.65.020 Definitions.

For purposes of this chapter:

A. "Public parks and playgrounds" shall mean and include:

1. Antczak park;
2. Bair park (also known as Golden Hills park);
3. Berry Hill park;
4. Butler park (the grounds of Cottonwood Heights Community Recreation Center);
5. Bywater park (also known as Banberry park);
6. Cottonwood Heights park (playing fields adjacent to Butler park);
7. Crestwood park;
8. Little Cottonwood park;
9. Mill Hollow park;
10. Old Mill park;
11. Richard L. Gutrie skate park;
12. Willow Creek park (pocket park on Supernal Way);
13. The grounds of any public school located within the city; and

14. Any other ball diamond, pocket park, soccer field, linear park/trail, bleachers and spectator areas, picnic pavilion and shelter, outdoor swimming pools, outdoor ice rinks, outdoor amphitheatres, playgrounds, and any other place within the city owned by a political subdivision of the state of Utah that is now or hereafter set aside or used as a public park, playground, recreational area or the like.

B. "Smoke" or "smoking" shall mean and include possession, carrying or holding a lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment, or the lighting or emitting or exhaling of smoke of a pipe, cigar, or cigarette of any kind, or of any other lighted smoking equipment.

14.65.030 Outdoor smoking prohibited in public parks and playgrounds.

Smoking is prohibited in all public parks and playgrounds except those areas, if any, specifically designated (through signage) by the owner or operator of such public park or playground as smoking areas.

14.65.040 Smoking prohibited on city-owned property at and during city-sponsored events.

Smoking is prohibited in all city-owned property at and during city-sponsored events except those areas, if any, specifically designated by the city as smoking areas.

14.65.050 Smoking prohibited near transit stops.

Smoking is prohibited within 25 feet of any bus stop or other public transit stop or station in the city.

14.65.060 Penalties.

A "first offense" violation of this chapter is an infraction punishable by a fine not to exceed \$25.00 but not by imprisonment. Police officers shall have the discretion to issue a "warning" if they deem it is in the city's best interests for a first offense under this chapter. Second, and subsequent, offenses of this chapter are punishable as a Class C misdemeanor.

WST/CH/496345.2